

REMARKS

Claims 22 and 23 are presently pending. Non-elected claims 1-21 and 26-37 have been canceled without prejudice or disclaimer to the filing of a divisional application. The recitations of claims 24 has been added to independent claim 22, and claim 25 has been canceled as unnecessary in light of this change.

In the Office Action of November 30, 2006, the Office includes a rejection of claim 22 under 35 U.S.C. §103¹ as unpatentable over the Seidl et al patent publication (U.S. 2002/0014647); and a rejection of claim 23 under 35 U.S.C. §103 as allegedly being unpatentable over the Seidl et al patent publication in view of the Chooi et al² patent (U.S. Patent 6,486,080). These rejections have been rendered moot by the amendment to these claims.

The Office Action also includes a rejection of claims 24 and 25 under 35 U.S.C. §103 as allegedly being unpatentable over the Seidl et al patent publication and Chooi et al patent, in further view of the Lee et al patent (U.S. Patent 7,112,539). This rejection is respectfully traversed as it applies to amended claims 22 and 23.

The Office asserts that the Lee et al patent teaches a multi-layer dielectric material suitable for capacitors. What is lacking in the Office's allegations is any suggestion that the claim meets the recitation of a dielectric constant *that is higher than that of the AHO film* between the upper electrode and the AHO layer. The Lee et al patent discloses a multilayer dielectric structure that does not appear to disclose

¹ It is assumed that the Examiner meant to apply 35 U.S.C. §102(b).

² Applicants note that the Examiner is relying on a passage of the Chooi et al patent publication that refers to U.S. Patent 6,020,024. It is not entirely clear why the Office is relying on an indirect reference to this disclosure, but a copy of the patent is attached, together with a form PTO-1449 to assist in the Examiner's official acknowledgment of consideration of this patent. It is believed that the requirements of 37 C.F.R. §1.97 do not need to be met insofar as applicants are simply clarifying the record created by the Examiner.

AHO but instead has pairs of layers where the first layer is formed of HfO_2 , Ta_2O_3 , Y_2O_3 or ZrO_2 and the second layer is formed of Al_2O_3 .

Insofar as the Office has not pointed to any disclosure of all of the recitations of the pending claims, applicants respectfully request reconsideration and withdrawal of the outstanding rejections of the pending two claims.

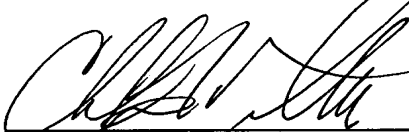
In light of the foregoing, Applicants earnestly solicit issuance of a Notice of Allowance. Should any residual issues exist, the Examiner is invited to contact the undersigned at the number listed below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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